IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 21994 of 2002

Between:

Sri Vani Vidyalayam High School Nagar Kurnool, Mahaboobnagar District
rep. by its Correspondent D.Prem Kumar Reddy S/o.D.Sudarshan Reddy, age 28 yrs, R/o.Nagar Kurnool, Mahaboobnagar Dist

..... PETITIONER

AND

1 The State of Andhra Pradesh rep. by its Secretary
Education Department Secretariat Buildings, Hyderabad
2 The Commissioner and Directorof School Education Andhra Pradesh
Saifabad, Hyderabad
3 The District Educational Officer, Mahaboobnagar, Mahaboobnagar Dist
4 The Deputy Educational Officer, Nagar Kurnool
Mahaboobnagar Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass orders particularly one in the nature of writ of mandamus declaring the action of the respondents in not admitting unaided posts into grant in aid as per the staffing pattern of the High School as arbitrary, illegal, discriminatory, and violative of Art. 14 and 19 of the Constitution of India and contrary to the provisions of Act 22/1988 and consequently direct the respondents to admit the approved unaided Teacher posts of the petitioner school into Grant in aid as per the staffing pattern prescribed for the High Schools vide GO.Ms.No.39 Education Department dt.3/5/2002 and grant such other order.

Counsel for the Petitioner: MR.KASAJAGANMOHAN REDDY

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court made the following :

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ORDER:

Sri Vani Vidyalayam High School, Nagarkurnool, Mahaboobnagar District seeks a writ of Mandamus declaring the action of the respondents in not admitting the unaided posts of the petitioner school in Grant-in-aid as per the staffing pattern of the High School as arbitrary, illegal and contrary to the provisions of Andhra Pradesh Private Educational Institutions Grant-in-Aid (Regulation) Act, 1988. The petitioner also seeks a consequential direction to the respondents to admit the approved unaided Teacher posts to Grant-in-aid as per the staffing pattern prescribed in G.O.Ms.No.39 dated 03.05.2002.

The petitioner is an aided educational institution, which was initially established as a primary school during 1984-85, after obtaining necessary permission and recognition from the concerned authority. The petitioner claims to have upgraded by opening 6th class in 1986 and finally 10th class in 1994. By G.O.Rt.No.89 dated 19.03.1984, one School Assistant and two Secondary Grade Teacher posts were admitted in Grant-in-aid. When the petitioner again approached for Grant-in-aid, the fourth respondent sent proposals for admission of three School Assistant posts, five Secondary Grade Teacher posts, two Language Pandit posts and one P.E.T. in Grant-in-aid in 1994. It appears, pursuant to the report of the fourth respondent, Three-man District Level Committee inspected the school on 23.08.2002 and pursuant thereto, fourth respondent sent proposals to the State Government. As no action is taken, the present writ petition is filed.

In the counter affidavit filed by the District Educational Officer, it is stated that the proposals sent by the Three-man District Level Committee are pending before the Government. The allegation of the petitioner that the posts as recommended by the fourth respondent should be admitted to Grant-in-aid treating the school as a High School is denied. It is stated that the School was upgraded as Upper Primary School during 1986 and subsequently the school was permitted to open 7th class. The Regional Joint Director granted temporary recognition to run 8th and 9th classes during the academic year 1992-93 and therefore, it is stated that the school is entitled to be admitted to Grant-in-aid only up to 7th class.

The learned counsel for the petitioner submits that the school was upgraded as High School by introducing 10th class in the year 1994 and recognition made by the fourth respondent treating the school as Upper Primary School is illegal. It is however not denied that the ultimate authority to admit a school or post in Grant-in-aid is the State Government. Even by the date of filing of the writ petition, the recommendation was

sent by the District Level Committee and the Government did not take any decision. Therefore, unless and until, the Government takes a decision either on their own or based on recommendations made by District Level Committee, the petitioner cannot be said to have any cause of action. If so advised, the petitioner is given liberty to make a representation to the Commissioner, Directorate of School Education, and as and when such representation is made, the same shall be considered by the State Level Committee before passing appropriate orders. This exercise may be completed within a period of two months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

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(V.V.S.RAO,J)

15.09.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The secretary, Education Department, Government of Andhra Pradesh, Secretariat, Hyderabad.
2. The Commissioner and Director of School Education, Government of Andhra Pradesh, Saifabad, Hyderabad.
3. The District Educational Officer, Mahaboobnagar, Mahaboobnagar Dist.
4. The Deputy Educational Officer, Nagarkurnool, Mahaboobnagar Dist.
5. 2 CCs to the G.P. for School Education, High Court Buildings, Hyderabad (OUT).
6. 2 CD copies.